

**PLANNING BOARD MEETING MINUTES  
TUESDAY, FEBRUARY 15, 2005**

**MEMBERS PRESENT:** Paula Caron  
John DiPasquale  
Mike Hurley  
Nancy Maynard  
Dean Tran  
Jay Cruz  
Yvette Cooks (associate member)  
Paul Fontaine, Jr. (associate member)

**MEMBERS ABSENT:** Jeremy Daly

**PLANNING OFFICE:** David Streb  
Larry Casassa  
Mary McCaffrey  
Mike O'Hara

**Call to Order**

Meeting called to order at 6:00 p.m. in the Veterans' Room, First Floor, City Hall.

**Communications**

Several decisions, legal notices and minutes from the Zoning Board of Appeals.  
Citizen Planning Training Collaborative (CPTC) brochure for upcoming training workshops.  
Letter from North County Land Trust regarding their willingness to assist in watershed protection  
Legal notices from other towns.

ENF for Westminster Hill Road 156 condo units. MEPA site visit to be held 2-22-05. Board discussed status of project. At 8-3-04 meeting the Board had determined that the changes proposed by Mark Biller were a "minor change" and that no public hearing would be required, but that a full set of more detailed site plans would still need to be submitted, reviewed by departments and approved by Planning Board. Mr. Streb brought up that 156 "E-1" sewer pumps were now proposed instead of gravity sewer, and that the Fire Department had determined that the internal road width had to be 24 feet instead of the 18 feet the Board had permitted. The Board determined that this was not a minor change and that the proponent should come back for a modification of the Special Permit. The proponent would be made aware of this.

**Meeting Minutes**

Motion made and seconded to approve minutes of the 1-18-05 (CDBG) meeting.  
Vote unanimous to approve.

Motion made and seconded to approve minutes of the 1-25-05 meeting with several corrections, notably the requirement for a 50-foot blasting buffer behind Mr. Gagnon's house. The Board said that the minutes should state that a blasting buffer would be 50 feet **if possible**.  
Vote unanimous to approve.

**ANR plans**

The Board reviewed the following "ANR" plans:

Intervale Rd., Zichelle Realty, LLC

Existing parcel in front of Simonds Industries building to be split in two. Appeared that property line splits existing parking area and may be zoning violation. Board voted to authorize Planning Coordinator to endorse plan upon addition of note on plan stating "ANR endorsement does not indicate compliance with Zoning requirements" or similar language.

Blossom St. & Gage St., Rivers

Parcel with two existing structures (164 Blossom St. & 17 Gage) to be split. ZBA has granted Variance for undersized Lot 2 (5,631 sq. ft.). The Board endorsed the plan.

#### Shattuck Rd., Tully

Property owner Dawn Tully, Gary Shepard of David E. Ross Assocs. and Atty. Mariolis present. Mr. Streb explained to the Board that the staff feels that the access to Shattuck Street is illusory. Atty. Chuck Mariolis presented information to the Board to the effect that the road is as passable as Billings Road is, and ANR plans have been approved for Billings Road.

Mr. Shepard stated that trucks and backhoes can travel on it, and Water Dept. vehicles travel on it. Ms. Tully stated she's driven her minivan down Shattuck. Mr. Streb said he spoke to officials at the Fire Department, and they felt that the road was impassable and urged that the ANR be denied. Board reviewed a memo from Fire Dept. Gary Shepard says that the Engineering Office has approved the improvement plan for Shattuck Rd. The Conservation Commission had denied the road improvement project.

Mr. Streb explained that the Board shouldn't sign the plan until the road is improved. He compared it to the northern portion of Ashby West Road, which is also an unbuilt public way. Ms. Tully explained that Shattuck Road is much better than unbuilt Ashby West Road. Mr. Streb said his point was that they are both unbuilt public ways. Discussion ensued about the adequacy of the way. Mr. O'Hara informed the board that the plan was submitted on January 27, and that a decision would have to be made in 21 days. Mr. Shepard explained to the board that just because they approve lots doesn't mean that the structures will be approved – that they would still have to apply for a building permit.

Reference was made to the City of Fitchburg Street Guide which lists Shattuck Road as an impassable public way.

In addition to the issues with Shattuck Road, proper documentation showing that proposed Lot 11 met rear lot requirements was not provided.

Concerns were also raised about access to the buildable portions of some of the proposed lots (1&4) fronting on Ashby State Rd., as the narrow access necks over 250-350 feet long by 50 feet wide to the buildable portions of the lots, as delineated on the submitted plan, appear to be mostly wetlands. The applicant stated that an alternate road system (not shown on the plan), common driveways/private ways, is proposed near the rear of the lots to obtain access. Refer to plan - Dawn M. Tully, November 2004 – by David E. Ross & Associates.

Shattuck Road does not provide access as contemplated by §81M and its inadequacies place it beyond the deficiencies of the way. The road as it exists does not provide safe, efficient and adequate emergency vehicular access to the proposed lots, therefore the access is illusory.

Motion made by Ms. Maynard, seconded by Mr. Hurley to deny endorsement. Vote was 4-2 in favor of denial to endorse the proposed plan under G.L.c. 41, § 81P.

#### **PUBLIC HEARINGS**

##### **Special Permit - LK-7, LLC, Earth Removal - Westminster Hill Road (renewal)**

*Members present & voting: Caron, Cruz, DiPasquale, Hurley, Maynard, Tran, Cooks (assoc. member)*

Dan Proctor and Steve Marsden of LK-7 present.

A Special Permit has originally been issued in 2000 and has been extended twice.

Dan Proctor said that he just couldn't get the work done, and would like another two year period.

75% of the earth removal had been completed.

Mr. Streb asked about the elevation of Westminster Hill Road in that area. Mr. Marsden said that Mr. Lunn will be removing the gravel from the road area and reducing its elevation by 20 feet as part of the proposed water improvements for the over-55 "Westminster Hill Village" condo project down the road.

Ms. Caron asked about the performance bond required to be put up and asked if it was still good. Mr. O'Hara will check with Engineering.

Public Comment:

John Handler, 1296 Westminster Hill Road, across street from sand pit, stated that when wind is from the south, dust is a continuing problem. He has complained numerous times to the Board of Health. The Board of Health told him he'd have to file a complaint with DEP.

Mr. Proctor said he installed wind fencing every 50 feet or so, spread loam and seed in the completed areas, and lowered a pile of sand in an attempt to reduce dust. He promised to patrol the area more vigorously. He said that he allows persons in the neighborhood to ride ATVs on the land and that it's not the ATV riders that caused damage to his equipment. He said he can't afford to put up a chain link fence around all 85 acres.

Mr. Handler said the area of earth removal is only 8 acres, and city shouldn't have allowed him to strip all the acreage. There's currently a large pile that will dry up and start blowing around if it isn't removed. And the dirt bikes are tearing up the soil and making more dust.

Mr. Proctor said that Westminster Hill Road is a dusty road, and that cars driving on it make dust.

Hearing closed 7:46 p.m.

Mr. Fontaine: appropriate measure should be taken for dust control.

Ms. Caron: have seen in other towns that cleaning of abutting homes was required to be done on a periodic basis.

Ms. Maynard: Would applicant be willing to post the area and notify the riders that they can't ride on the land any more?

Mr. Handler stated that the police told him that he has no standing to complain to the Police.

Motion made & seconded to issue a Special Permit with following conditions:

- Special Permit good until July 1, 2005
  - Post no trespassing signs
  - Take adequate measures for dust control.
  - Notify police department in writing that police have full authority to enforce any trespassing and submit copy of said notice in writing to planning board.
  - No motor vehicles permitted other than construction equipment.
  - Original conditions carry forward.
  - Applicant would have to submit request for special permit extension prior to July 1, 2005.
- Extensions may be granted at board discretion and include review of operations status and ongoing compliance with permit conditions.

Vote 6-1 to approve.

### **Other Business**

#### **Skyview Estates – Proposed Tri-Party Agreement**

Steve Mullaney came in with revised Tri-Party Agreement with dollar amount as recommended by DPW Engineering. Board signed the Tri-Party Agreement and a covenant release for Lots 1-9.

#### **Kopley Place subdivision, DB Realty Trust - Proposed Tri-Party Agreement**

Atty. Tom Gibbons requested a release of the subdivision covenant and substitution of a Tri-party Agreement in the amount of \$141,503.79. The amount was agreed to by Gary Bevilacqua in the Engineering Office. The form of the Tri-Party agreement had been approved by the Law Department. The Board voted unanimously to approve the substitution.

#### **Wireless Communication Facility, Wanoosnoc Road**

Mr. Streb explained to the Board that all the site work on the access road was complete or nearly complete to Engineering's satisfaction except for the final paving, which can't be completed until the plants open in the spring. A condition of the Special Permit stated "Improvements to the monopole access road are to be completed prior to issuance of a Building Permit for the Verizon Wireless installation on the monopole." Bay Communications has requested that the Board allow a building permit to be issued for Verizon's antenna.

The Board said yes, provided the applicant post a \$10,000 performance bond to secure the completion of the work and stated that the work had to be completed by July 1, 2005.

#### **CDBG Year 31 Recommendations (2005-06)**

Yvette Cook and Nancy Maynard excused themselves from discussion because of a potential conflict of interest and left the room.

Mr. Streb read the staff's recommendations aloud. The Board voted to eliminate the recommendation for \$30,000 for a fence at the Housing Authority's Green Acres Village, and to give \$10,000 to Camp COGIC and \$20,000 additional for demolition. Mr. Streb explained that the public service cap would probably not be a problem, but that the total now slightly exceeded our estimate of the cap. He cautioned that we will know when July 1, 2005 comes whether we will be able to approve that amount based on total program income for the fiscal year.

Motion made & seconded to adjourn the meeting. Vote unanimous.

Meeting adjourned: 9:45 p.m.

*Next meeting: March 15, 2005*

*Approved: March 15, 2005*